



THE CITY OF SAN DIEGO

November 3, 2004

VIA FACSIMILE – (916) 322-6440

Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: Meeting Agenda for November 4, 2004
Item No. 12 – Amendments to Gift Regulations

Dear Commissioners:

The City of San Diego Ethics Commission is charged with enforcement of the City's Ethics Ordinance, which includes provisions regarding the receipt and disclosure of gifts based in large part on the Political Reform Act. Accordingly, the Ethics Commission typically looks to FPPC Regulations and advice letters for guidance.

After reviewing the proposed amendments associated with the regulations concerning the valuation of gifts, I am concerned that the proposed "drop-in visit" rule would literally be unenforceable from a regulatory perspective. In order to investigate an alleged violation under the proposed amendments, the Ethics Commission staff would be required to interview event attendees in an effort to ascertain if witnesses noticed the time that a city official arrived or departed, or if they observed a city official consume any food or beverage. As noted in the memorandum from the FPPC Legal Division, the proposed amendment is ripe for abuse. It seems entirely illogical to consider implementation of a regulation knowing that it will be abused, and knowing that it will be next to impossible to gather evidence to prove a violation.

I would also like to point out that there are several existing exemptions for government officials who attend events. For example, there is the "official or ceremonial" exception codified in FPPC Regulation 18944.1(d), as well as an exception for tickets or passes to political or 501(c)(3) fundraisers outlined in FPPC Regulation 18946.4. While I understand that government officials have articulated a need for some type of exemption applicable to events they feel they are required to attend for a limited amount of time, I believe that the opportunity for abuse and the inability to regulate far outweigh these concerns, and that the public would be better served by continuing to require the officials to report their pro rata share of the cost of an event.



Ethics Commission

1010 Second Avenue, Suite 1530 • San Diego, CA 92101
Tel (619) 533-3476 Fax (619) 533-3448

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I have reviewed the changes proposed by the San Diego City Attorney's Office with respect to the "drop-in visit" rule proposed as Regulation 18946.2(e). If the FPPC elects to move forward with the proposed amendments, I believe that the language proposed by the City Attorney's Office will provide at least some opportunity for successful enforcement.

Along the same lines, I have reviewed the modifications proposed by the San Diego City Attorney's Office with respect to the proposed amendments to Regulation 18946.2, and I concur that the method for determining the pro rata cost of an event should be limited to the total cost divided by the number of invitees (not the RSVP's received or the actual number of attendees). From an enforcement perspective, it is frequently difficult if not impossible to accurately determine the number of attendees at an event. Moreover, it seems only fair and reasonable to permit a city official to determine the cost of a benefit before he or she decides to attend an event.

Thank you for the opportunity comment on the proposed amendments.

Sincerely,



Stacey Fulhorst
Executive Director

SF/s